

PART II

THE CODE

Revised November 2005

CHAPTER 1

GENERAL PROVISIONS

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Vienna Town Code

Sec. 1-1 How Code Designated and Cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Vienna, Virginia" and may be so cited. Such ordinances may also be cited as "Vienna Town Code."

Sec. 1-2 Rules of Construction and Definitions Generally.

In the interpretation and construction of this Code and of all ordinances and resolutions of the Town, the following rules of construction and definitions shall be observed unless otherwise specifically provided or unless they are inconsistent with the manifest intent of the Council or the context clearly requires otherwise:

Bond. When a bond is required, an undertaking in writing with such surety, if any, as the Council may direct, may be sufficient.

Computation of Time.¹ The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Saturday, Sunday or a legal holiday, that day shall be excluded.

Council. The words "Council" or "the Council" shall mean the Council of the Town of Vienna, Virginia.

County. The words "county" or "the county" shall mean the County of Fairfax in the State of Virginia.

Following.² The word "following", when used by way of reference to any section, shall be construed to mean next following that in which such reference is made.

Gender.³ A word importing the masculine gender only may extend and be applied to females and to corporations as well as males.

In the Town. The words "in the Town" shall mean any territory jurisdiction of which for the exercise of its regulatory power has been conferred on the Town by public or private law.

¹ For State law as to computation of time, see Code of Va. § 1-13.3.

² For similar State law, see Code of Va. § 1-13.6

³ For similar State law, see Code of Va. § 1-13.7

May. The word "may" shall be permissive.

Month. The word "month" shall mean a calendar month.

Number.⁴ A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

Oath.⁵ The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.

Occupant or Tenant. The word "occupant" or "tenant" applied to a building or land shall mean any person who holds a written or oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

Official Time Standard. Whenever particular hours are specified in this Code relating to the time within which any act shall or shall not be performed by any person, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the Town.

Owner. The word "owner" applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person.⁶ The word "person" shall include a firm, partnership, association of persons, corporation, organization or any other group acting as a unit.

Preceding.⁷ The word "preceding", when used by way of reference to any section, shall be construed to mean next preceding that in which such reference is made.

Property. The word "property" shall mean real, personal or mixed property.

⁴ For similar State law as to number, see Code of Va. § 1-13.15

⁵ For similar State law, see Code of Va. § 1-13.16

⁶ For State law definition of person, see Code of Va. § 1-13.19

⁷ For similar State law, see Code of Va. § 1-13.23

Public Place. The words "public place" shall mean the parks and all public lands owned or leased by the Town, and those parts of public places which do not form traveled parts of streets as defined in this section.

Shall. The word "shall" shall be mandatory.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature, Subscription. The words "signature" and "subscription" shall include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

State. The words "state" or "the state" shall mean the State of Virginia.

Street. The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the Town, and shall mean the entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Council.

Swear, Sworn.⁸ The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

Town. The words "town" or "the town" shall mean the Town of Vienna in the County of Fairfax and the State of Virginia.

Written, In Writing. The words "written" and "in writing" shall include typewriting, printing on paper, and any other mode of representing words and letters.

Sec. 1-3 Provisions Considered as Continuations of Existing Ordinances.

The provisions appearing in this Code, so far as they are in substance the same as those of the 1962 Ordinances of the Town of Vienna, Virginia, and all ordinances adopted subsequent thereto and included herein, shall be considered as continuations thereof and not as new enactments.

⁸ For similar State law, see Code of Va. § 1-13.28

Sec. 1-4 Effect of Repeal of Ordinances.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

Sec. 1-5 Severability of Parts of Code.

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-6 Catchlines of Sections.⁹ The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

⁹ For similar State law applicable to statutes, see Code of Va. § 1-13.9

Sec. 1-7 General Penalty; Continuing Violation.¹⁰

Whenever in this Code, or in any ordinance or resolution of the Town, or rule or regulation or order promulgated by any officer or agency of the Town under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or a misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code, or of such ordinance, resolution, rule, regulation or order, shall be punished by a fine not exceeding two thousand five hundred dollars (\$2,500) or by imprisonment in jail for a period not exceeding twelve (12) months, or by both such fine and imprisonment. Each day any such violation shall continue shall constitute, except where otherwise provided, a separate offense. (Code 1962, § 1-6; 10-90)

Sec. 1-7.1 Punishment for Conviction of Misdemeanor. (New 9-10-91)

Whenever in this Code a misdemeanor is identified or referred to by class the authorized punishments for conviction of a misdemeanor are:

(a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500.00, either or both.

(b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1,000.00, either or both.

(c) For Class 3 misdemeanors, a fine of not more than \$500.00.

(d) For Class 4 misdemeanors, a fine of not more than \$250.00.

¹⁰ For State law as to power of Council to prescribe fines and other punishment for violation of ordinances, see Code of Va. § 15.1-13.

As to penalty for misdemeanor in absence of specific penalty, see Code of Va. § 18.1-9.

As to penalties for violation of requirements as to numbering of houses, see § 5-14 of this Code. As to penalties for violating Fire Prevention Code, see § 7-40.

As to penalties for nonpayment of license tax, see § 8-7.

As to penalty for violation of motor vehicle and traffic regulations, see § 9-18.

Sec. 1-8 Collection and Disposition of Fines.¹¹

All fines and penalties imposed under this Code or other ordinance of the Town shall be for the use of the Town. Fines may be collected by execution returnable within thirty (30) days after the date of issue. The officer levying such execution shall sell the property upon which a levy has been made at auction, for cash, at some public point within the Town, after advertising the time and place of such sale for ten (10) days by posting notices thereof at three conspicuous places within the Town. (Code 1962, § 1-3)

Sec. 1-9 Confinement for Failure to Pay Fine.¹²

If a person convicted of violating this Code or other ordinance is confined in jail until his fine is paid, or under a capias pro fine, such confinement shall not exceed five (5) days when the fine is less than five dollars (\$5.00); when less than ten dollars (\$10.00), it shall not exceed ten (10) days; when less than twenty-five dollars (\$25.00), it shall not exceed fifteen (15) days; when less than fifty dollars (\$50.00), it shall not exceed thirty (30) days and in no case shall the confinement exceed two (2) months.

Sec. 1-9.1 Fee Charged for Passing Bad Checks to Town.¹³

Every person, firm or corporation who shall utter, publish or pass any check or draft to the Town in payment of taxes or any other sums due which is subsequently returned for insufficient funds or because there is no account, or the account is closed, shall pay to the Town for each such check or draft a fee of twenty dollars (\$20.00) in addition to the tax or other sum due and for which the check or draft was uttered, published or passed. Such fees shall be collectible and disposed of as all other fines and penalties.

Sec. 1-10 Right of Entry for Purposes of Inspection.

Whenever any officer or employee of the Town is required or authorized by statute, the provisions of this Code or any ordinance or resolution, or rules and regulations, or orders issued thereunder, in order to carry out his duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof, or anything therein contained, such officer or employee shall have the right to enter any such premises or vehicle at any reasonable time in pursuance of such duties. (Code 1962, § 1-17)

¹¹ For State law as to the collection and disposition of fines, see Code of Va. § 19.1-338.

¹² For similar State law, see Code of Va. § 19.1-334

¹³ For State law authorizing, see Code of Va. § 15.1-29.4

Sec. 1-11 Town Seal.

The official seal of the Town shall be a metallic disc one and one-half inches in diameter with a barred rim, and with such words and figures engraved thereon as will, when used, reproduce impressions to be described as follows:

With the barred rim at a distance of three-eighths of an inch therefrom shall be a beaded circle, in the space between the rim and the beaded circle shall be the words "The Town of Vienna, Virginia" and at the bottom thereof shall be the numerals "1890." The numerals at either end shall be separated from the beginning and end of the words by a star at equidistance. Within the beaded circle shall be impressed Virtus, the genius of the Commonwealth, dressed as an Amazon, resting on a spear in her right hand, point downward, touching the earth; and holding in her left hand a sheathed sword, or parazonium, pointing upward; her head erect and face upturned; her left foot on the form of Tyranny represented by the prostrate body of a man, with his head to her left, his fallen crown nearby, a broken chain in his left hand, and a scourge in his right. Above the group and within the border conforming therewith shall be the word "Virginia" and in the space below, on a curved line, shall be the motto, "Sic Semper Tyrannis." (Code 1962, § 1-8)

Sec. 1-12 Schedule of Fees. (New 06-16-03, amended 11-07-05)

THE TOWN OF VIENNA SCHEDULE OF FEES:

<u>CHANGES IN ZONING:</u>	\$1,200.00
<u>SUBDIVISION PLATS:</u>	
Preliminary Plats	\$350.00 plus \$15.00 per lot
Revised Preliminary Plats	\$150.00
Final Plats	\$125.00 plus \$15.00 per lot
Revised Final Plats or Reapproval of Expired Final Plats	\$150.00

(SCHEDULE OF FEES CONTINUED ON NEXT PAGE)

SITE PLAN REVIEW:

Site Plans (including Landscape Plans and Modification of Requirements)	\$400.00 plus \$15.00 for each 1,000 square feet of gross floor area.
Revised Site Plans (including Wall Waiver Requests)	\$300.00
Reapproval of expired Site, Landscape Plans, or Modifications of Requirements	\$150.00

BOARD OF ZONING APPEALS:

Appeals, Variances or Zoning Map Interpretations	\$200.00
Conditional Use Permits	\$300.00

BOARD OF ARCHITECTURAL REVIEW:

New Development Review	\$100.00
Existing Development Review (Includes Revised Landscape Plans)	\$50.00

<u>OCCUPANCY PERMITS:</u>	\$50.00
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SIGN PERMITS:

Permanent Signs	\$50.00
Temporary Signs	\$50.00 plus \$25.00 sign bond
Temporary Political Signs	\$15.00 plus \$25.00 sign bond

<u>FENCE PERMIT:</u>	\$15.00
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<u>RESIDENTIAL BUILDING PERMITS (ZONES RS-16, RS-12.5, RS-10, RM-2 AND RTH):</u>	\$40.00 minimum fee, plus five cents (\$0.05) per square foot of the area of new construction
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<u>COMMERCIAL BUILDING PERMITS (ZONES T, C-1, C-1A, C-1B, C-2, C-M, CMP AND PR):</u>	\$80.00 minimum fee, plus ten cents (\$0.10) per square foot of the area of new construction
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(SCHEDULE OF FEES CONTINUED ON NEXT PAGE)

DRIVEWAY PERMITS:

\$40.00 for each permit

ZONING ADMINISTRATOR

INTERPRETATION/ DETERMINATION
LETTER:

\$100.00 fee per letter

BOUNDARY LINE ADJUSTMENT OR
EASEMENT PLAT:

\$150.00 fee per occurrence

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